



**Halifax New Zealand Limited
(In Liquidation) (the Company /
Halifax NZ)**

**Company Number 2130897
NZBN 942 903 274 8079**

Liquidators' fourth report

20 October 2020

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Contents

| Section | Page |
|---|------|
| 1 Introduction | 2 |
| 2 Statutory Reporting | 2 |
| 3 Restrictions | 2 |
| 4 Current position | 2 |
| 5 Investigation into the Company's affairs | 4 |
| 6 Update on Court process | 4 |
| 7 Professional fees and internal disbursements | 5 |
| 8 Conduct and estimated timeframe for a distribution | 6 |
| 9 Reporting obligations | 6 |
| 10 Future reporting | 6 |
| 11 Queries | 6 |
| Annexures | 7 |
| A – Liquidators' operating account - Receipts & Payments to 22 September 2020 | 8 |
| B – Company pre-appointment trust accounts receipts and payments to 22 September 2020 | 9 |
| C – Other company pre-appointment accounts receipts and payments to 22 September 2020 | 10 |
| D – Detailed analysis for fees incurred from 22 March 2019 to 31 August 2020 | 11 |
| E – List of creditors | 12 |

1 Introduction

Morgan Kelly, Phil Quinlan and Stewart McCallum were appointed as Administrators of the Company on 27 November 2018 pursuant to Section 239I of the Companies Act 1993 (the **Act**). The appointment followed the appointment of the same Administrators to Halifax Investment Services Pty Limited (Australian entity) (**Halifax AU**) on 23 November 2018.

At the watershed meeting held on 22 March 2019, creditors resolved that the Company be wound up pursuant to Section 239ABA of the Companies Act and that the Administrators be appointed as Liquidators of the Company. As previously advised, Stewart McCallum has since resigned as Liquidator of the Company effective from 9 May 2019.

2 Statutory Reporting

This report has been prepared pursuant to section 255(2)(d) of the Act and covers the six month period from 23 March 2020 to 22 September 2020 (**This Report**).

This Report should be read in conjunction with the Liquidators' previous reports and updates, and in particular the Liquidators' report to investors and creditors on Halifax AU and Halifax NZ dated 31 August 2020 (the **Liquidators' August Report**). A copy of the Liquidators' August Report is available at the following link:

<https://assets.kpmg/content/dam/kpmg/au/pdf/creditors/halifax-investment-services/halifax-report-to-investors-creditors-31-august-2020.pdf>

Copies of all previous reports and updates are available at the following link:

<https://home.kpmg/au/en/home/creditors/halifax-nz-limited.html>

3 Restrictions

This Report has been prepared in accordance with and for the purpose of section 255 of the Act. It is prepared for the sole purpose of reporting on the state of affairs of the Company in liquidation and the conduct of the liquidation. It is not the intention that this Report is available for general circulation nor should it be reproduced in full or in part without the Liquidators written consent.

In preparing this Report, the Liquidators have relied upon information, documentation and explanations provided to them by various parties. The information, documentation and explanations have not been independently verified or audited as at the date of compiling this Report. The Liquidators accept no responsibility for the completeness or accuracy of the information contained in this Report, nor do they accept liability for any losses occasioned to any party due to the circulation, publication, reproduction, or use of this Report.

The Liquidators reserve the right to review and amend this Report in light of any additional information and explanations that become available, although they are under no obligation to do so.

Amounts are in NZD unless specified.

4 Current position

4.1 Matters addressed during the liquidation

The primary focus since the commencement of the Liquidation has been:

1. work in relation to the Court proceedings currently on foot in the Federal Court of Australia (**FCA**) and the High Court of New Zealand (**HCNZ**) for the purpose of seeking directions and / or judicial advice to enable the distribution to investors of the funds held on their behalf as soon as possible; and
2. investigating potential monetary recoveries from third parties to seek to maximise the return to investors and creditors.

I set out the other matters addressed below.

4.1.1 Trading

At this stage, the Liquidators continue to maintain the trading platforms and IT infrastructure through Halifax AU.

All investor accounts remain in 'close only' mode – i.e. it is not possible for investors to enter into new positions, nor is it possible to withdraw money from client accounts, however it is possible to close out current positions.

The Liquidators have made the decision to refrain from closing out or realising any outstanding investments until the Courts have determined that issue in conjunction with all other issues at the final hearing. The FCA and HCNZ have both confirmed that the Liquidators are justified in taking this position.

4.1.2 Assets

Refer to section 8.4 of the Liquidators' August Report for a summary of cash and other assets held by Halifax NZ.

4.1.3 Liabilities

4.1.3.1 Secured creditors

No secured creditors have filed claims since our last report.

4.1.3.2 Preferential creditors

Preferential creditors who have already lodged a proof of debt to date are not required to lodge another proof of debt at this stage. Preferential creditors are estimated to total \$116,360.

The Liquidators have not made any distributions to preferential creditors.

A list of preferential creditors is provided at **Annexure E**.

4.1.3.3 Unsecured creditors

Unsecured creditors who have already lodged a proof of debt to date are not required to lodge another proof of debt at this stage. Unsecured creditors are estimated to total \$10,968. Please note, this amount includes approximately 2,100 contingent unsecured creditors of Halifax NZ for the value of \$1.

The Liquidators have not made any distributions to unsecured creditors.

A list of unsecured creditors is provided at **Annexure E**. A list of contingent creditors is provided in the Liquidators' first statutory report at:

<https://app.companiesoffice.govt.nz/companies/app/service/services/documents/040842DEC6D7567469635D94121C7D35>

4.1.3.4 Contingent creditors (trust beneficiaries)

As previously advised, investors will be unsecured creditors to the extent of the shortfall in trust assets to meet beneficiary claims.

Given the deficiency in Client Moneys, comprised of breaches of trust (which may be made up in whole or in part by future recovery actions) and the costs of the liquidation (including ongoing operating expenses, fees incurred by the Voluntary Administrators and Liquidators and legal fees), investors will not receive their full entitlement from the assets currently held by Halifax AU and Halifax NZ.

Although unforeseen circumstances may unfold, as things presently stand most investors should receive a substantial portion of their money back. The amount that investors will receive in the distribution will depend on the directions given by the Courts and value of the portfolio when investments are realised (or an in specie distribution is carried out).

Investors should refer to section 9 of the Liquidators' August Report which outlines the likely return to investors on the basis of certain assumptions. However, there may be a possibility of further recoveries from various investigations being undertaken by the Liquidators which could result in additional future proceeds being available.

4.2 Summary of receipts and payments

A summary of receipts and payments for the period 27 November 2018 to 22 September 2020 is provided at **Annexure A**. Please note that this relates only to the Administrators' and now Liquidators' operating account which includes all operating receipts and expenses for the Voluntary Administration and now Liquidation period and

excludes any receipts and payments from the pre-appointment trust accounts and pre-appointment accounts controlled by Halifax NZ on appointment which are summarised at **Annexure B** and **Annexure C**, respectively.

A list of the receipts and payments for the period 27 November 2018 to 22 September 2020 for all other accounts opened subsequent to the appointment of the Voluntary Administrators which contain funds held in segregated accounts is provided at **Annexure C**.

5 Investigation into the Company's affairs

The Liquidators are currently considering possible funding alternatives in relation to progressing investigations which may lead to actions against the director and former director(s) of Halifax AU and Halifax NZ as well as various third-party advisors.

Whether or not the potential actions are pursued further will depend on a number of factors, including the evidence available to the Liquidators, the availability of funding, the merits of any legal proceedings, and the likely recoverability of any potential claims if successful.

It is possible that some of the claims will be subject to litigation and before the Courts at some stage and accordingly, the details of our investigations in this regard remain confidential at this stage.

Creditors should refer to section 6 of the Liquidators' August Report for further information regarding the status of these investigations and potential claims.

6 Update on Court process

Proceedings were commenced by the Liquidators of Halifax AU in the FCA on 3 July 2019 and the Liquidators of Halifax NZ in the HCNNZ on 25 September 2019 seeking directions as to how the Liquidators should distribute client moneys.

The FCA and the HCNZ have agreed to coordinate the conduct and hearing of the Australian proceedings and the New Zealand proceedings. All substantive case management hearings have been heard by both Courts together and the same will apply to the final hearing.

Please refer to section 4 of the Liquidators' August Report for a more detailed update in relation to the status of the Court process.

The final hearing is listed to commence on 30 November 2020, with an estimated length of up to two weeks.

The following table provides a summary of key milestones in the court process to date.

| Date | Key milestone |
|--------------------------|--|
| 3 July 2019 | Filing of application in the FCA requesting directions / judicial advice regarding issues arising for the distribution of Client Moneys. |
| 29 July 2019 | Initial hearing in the FCA regarding the Liquidators application for a letter of request to be issued by the FCA to the HCNZ. |
| 25 September 2019 | Filing of application regarding distribution of Client Moneys in the HCNZ. |
| 15 November 2019 | Issue of Important Notice to all investors in accordance with Orders dated 14 November 2014 (the Important Notice). |
| 18 December 2019 | First joint case management hearing of the FCA and the HCNZ by way of audio visual link. |
| 18 February 2020 | Joint procedural hearing of the FCA and HCNZ by way of audio visual link, at which time the representative parties were appointed to the four categories outlined in the November 2019 Important Notice. |

| | |
|-----------------------------------|---|
| 3 April 2020 | Joint hearing of the FCA and HCNZ by way of Microsoft Teams was held at which time two further parties were joined to the proceeding and a final hearing date of 30 November 2020 was set down. |
| 23 April 2020 / 5 May 2020 | Decisions of FCA and HCNZ that the Liquidators are justified in refraining from realising any and all extant investments until the determination of all substantive issues in the Joint Proceedings. |
| 22 May 2020 | Joint hearing regarding appointment of an independent referee regarding remuneration, and joint hearing of application regarding sources of funding for ongoing costs. |
| 22 June 2020 | Plaintiffs' evidence in the Joint Proceedings filed. |
| 31 July 2020 | Joint hearing regarding issues to be addressed by the Representative Defendants and consideration of whether expert evidence is necessary held. On the same day a hearing of the FCA took place to hear a joinder application from the majority shareholders, Jeffrey Worboys and Hong Kong Capital Holdings Pty Ltd. |

A detailed update in relation to the status of the Court proceedings can be found in section 4 of the Liquidators' August Report.

7 Professional fees and internal disbursements

The hourly rates of the Liquidators and their team members, as follows:

| Position | Hourly Rate AU\$ |
|--------------------|-------------------------|
| Partner | 695 |
| Director | 625 |
| Associate Director | 575 |
| Manager | 525 |
| Executive | 475 |
| Analyst | 375 |
| Support Staff | 225 |

The Liquidators have incurred fees of AU\$1,480,505 between 22 March 2019 and 31 August 2020, representing an average hourly rate of AU\$541. As at 20 October 2020 the Liquidators have been paid fees of AU\$838,354. A detailed analysis of fees incurred is included in Annexure D.

In early 2020, it became clear that the existing process for approval of remuneration by the COI in Australia and the COC in New Zealand was becoming inefficient, resulting in an unnecessarily long and costly process. The Liquidators sought guidance from the Courts on this issue and on 2 July 2020, orders were made by the FCA and the HCNZ that the remuneration incurred by the Liquidators would be reviewed by an independent expert prior to being put before the Courts for final approval. The independent expert engaged for this purpose is Mr Tony Tesoriero, a former Deputy District Registrar of the FCA.

The Liquidators' fees for the period 1 September 2020 to 22 September 2020 (being the end of this reporting period) are yet to be reviewed by the Liquidators and put before the independent expert reviewer for approval but are estimated to be approximately AU\$60,000.

8 Conduct and estimated timeframe for a distribution

As outlined in the Liquidators' August Report, due to the time required to verify investor claims and apply the directions and orders made by the Courts to these claims and distribute available assets, we estimate that following receipt of final Court directions and orders after the hearing of all issues, it will take at least 6 months to make a distribution to Investors

The Liquidators do not anticipate that a distribution to all investors will be made prior to June 2021 and the distribution may not be complete until after that time.

Further information can be found in the Liquidators' August Report and Estimated Outcome Statement dated 31 August 2020.

It is not possible at this stage to provide an estimate as to when the liquidation will be finalised.

9 Reporting obligations

The Liquidators are obligated to evaluate the actions of management, review antecedent transactions and if necessary, report any adverse findings to the appropriate authorities and/or institute proceedings for recovery of funds dissipated.

Should you have any information that you believe would benefit our enquiries then please set out details in writing, attaching copies of all documentary evidence, and send it to the Liquidators. Please note that the Liquidators can only act on written information as undocumented information is deemed to be hearsay only and is inadmissible in court.

10 Future reporting

Reports on the conduct of the liquidation and on proposals for completion of the liquidation will be prepared and distributed six monthly in accordance with section 255 of the Act. A final report will also be prepared and distributed in accordance with section 257 of the Act at the completion of the liquidation.

11 Queries

Questions regarding the Liquidation should be directed to the Liquidators via email at halifax@kpmg.com.au.

Dated this 20th day of October 2020



Morgan John Kelly

Joint and Several Liquidator of **Halifax New Zealand Limited (In Liquidation)**

Annexures

A – Liquidators' operating account - Receipts & Payments to 22 September 2020

The following table provides a summary of funds held in the Liquidators' operating account as at 22 September 2020

| Liquidators' operating account (NZD) | Voluntary Administration 27 November 2018 to 21 March 2019 (NZ\$) | Liquidation 22 March 2019 to 22 September 2019 (NZ\$) | Liquidation 23 September 2019 to 22 March 2020 (NZ\$) | Liquidation 23 March 2020 to 22 September 2020 (NZ\$) | Total (NZ\$) |
|--|--|--|--|--|--------------------|
| Opening cash balance at appointment | - | 479,185 | 190,287 | 739,183 | |
| Receipts | | | | | |
| Debtor collections | 506 | - | - | - | 506 |
| Receipts from pre-appointment accounts | 899 | - | 1,665,297 | 41,107 | 1,707,303 |
| Receipt from pre-appointment term deposit | 1,113,565 | - | - | - | 1,113,565 |
| Unclaimed monies | 21,437 | - | - | - | 21,437 |
| Plant & equipment | - | 850 | - | - | 850 |
| Cash at bank | 95,447 | - | - | - | 95,447 |
| Funds from Interactive Brokers | - | - | 337,920 | 929,304 | 1,267,224 |
| Foreign currency gain | - | - | - | 2,821 | 2,821 |
| Total receipts | 1,231,853 | 850 | 2,003,217 | 973,232 | 4,206,331 |
| Payments | | | | | |
| Administration expenses | (7,911) | (167,529) | (6,443) | (27,048) | (208,931) |
| Administrator disbursements | - | - | (128,430) | (22,941) | (151,371) |
| Administrator fees | (455,500) | - | (749,370) | (408,505) | (1,613,375) |
| Bank charges | (112) | (825) | (1,094) | (871) | (2,902) |
| Employee expenses | (52,519) | (57,399) | - | - | (109,918) |
| Foreign currency loss | - | (836) | (40,317) | - | (41,153) |
| Licence expenses | - | (11,207) | - | - | (11,207) |
| Platform & IT expenses | - | (3,545) | (358) | (391) | (4,294) |
| Other expenses | - | (2,707) | (349) | (4,350) | (7,405) |
| Occupancy expenses | (9,152) | (45,701) | - | (243) | (55,096) |
| Subcontractor expenses | - | - | - | - | - |
| Valuation fees | - | - | - | - | - |
| Legal fees & disbursements | (227,475) | - | (527,960) | (1,134,120) | (1,889,555) |
| Total expenses | (752,668) | (289,748) | (1,454,321) | (1,598,470) | (4,095,207) |
| Closing balance for appointee account | 479,185 | 190,287 | 739,183 | 113,945 | |

B – Company pre-appointment trust accounts receipts and payments to 22 September 2020

The following table provides a summary of funds held in the pre-appointment trust bank accounts and controlled by the Liquidators as at 22 September 2020. The below analysis excludes the Liquidators' operating account set out in Annexure A.

| Pre-appointment trust account or s981 account (NZD) | Voluntary Administration 27 November 2018 to 21 March 2019 (NZ\$) | Liquidation 22 March 2019 to 22 September 2019 (NZ\$) | Liquidation 23 September 2019 to 22 March 2020 (NZ\$) | Liquidation 23 March 2020 to 22 September 2020 (NZ\$) | Total (NZ\$) |
|---|---|---|---|---|--------------------|
| Opening cash balance at appointment | 1,764,981 | 1,811,069 | 1,843,751 | 228,587 | |
| Receipts | | | | | |
| Investor deposits | 44,011 | 30,000 | 7,000 | - | 81,011 |
| Interest | 2,507 | 3,813 | 1,215 | - | 7,535 |
| Total receipts | 46,518 | 33,813 | 8,215 | - | 88,546 |
| Payments | | | | | |
| Transfer to Appointee Account | - | - | (1,623,380) | (41,600) | (1,664,980) |
| Other expenses | - | (1,000) | - | - | (1,000) |
| Bank charges | (429) | (130) | - | - | (559) |
| Total payments | (429) | (1,130) | (1,623,380) | (41,600) | (1,666,540) |
| Closing balance for pre-appointment account | 1,811,069 | 1,843,751 | 228,587 | 186,987 | |

Please note, all foreign currency accounts have been converted to NZD based on the RBNZ exchange rate as at 27 November 2018

Please also note, there was an error in our previous report dated 21 April 2020 in that bank charges for the period 23 September 2019 to 22 March 2020 were stated as being NZ\$1,000, when there were no charges for this period. The above table now reflects the accurate charges.

C – Other company pre-appointment accounts receipts and payments to 22 September 2020

The following table provides a summary of funds held in the pre-appointment bank accounts in the name of Halifax NZ and controlled by the Liquidators as at 22 September 2020. The below analysis excludes the appointee trading account set out in Annexure A.

| Pre-appointment company accounts (NZD) | Voluntary Administration 27 November 2018 to 21 March 2019 (NZ\$) | Liquidation 22 March 2019 to 22 September 2019 (NZ\$) | Liquidation 23 September 2019 to 22 March 2020 (NZ\$) | Liquidation 23 March 2020 to 22 September 2020 (NZ\$) | Total (NZ\$) |
|--|--|--|--|--|--------------------|
| Opening cash balance at appointment | 1,209,910 | - | (25) | (149) | |
| Receipts | | | | | |
| Reversal of bank charges | - | - | - | 301 | 301 |
| Foreign currency gain | - | - | - | - | - |
| Total receipts | - | - | - | 301 | 301 |
| Payments | | | | | |
| Funds swept into Appointee trading account | (1,209,910) | - | - | - | (1,209,910) |
| Bank charges | - | (25) | (124) | (180) | (329) |
| Foreign currency loss | - | - | - | - | - |
| Total payments | (1,209,910) | (25) | (124) | (180) | (1,210,239) |
| Closing balance for pre-appointment account | - | (25) | (149) | (28) | |

Please note, there was an error in our previous report dated 21 April 2020 in that foreign currency gains for the period 23 September 2019 to 22 March 2020 were stated as being NZ\$17, when there were no foreign currency gains for this period. The above table now reflects the accurate charges.

D – Detailed analysis for fees incurred from 22 March 2019 to 31 August 2020

The following table provides a summary fees incurred for the liquidation period of 22 March 2019 to 31 August 2020.

| Staff Classification | Hourly rate / AU\$ | FMCR / FMA trust | Hours per phase | | | | | | | | Total (Hrs) | Total AU\$ | Average fee per hour (AU\$) |
|----------------------|--------------------|------------------|-----------------|--------------|--------------|-------------|------------|----------------|------------|-----------------------------|-----------------|---------------------|-----------------------------|
| | | | Investigation | Creditors | Trade on | Assets | Employees | Administration | Dividend | Other professional services | | | |
| Partner | 695 | 13.0 | 234.4 | 86.6 | 15.3 | 0.8 | 0.5 | 71.4 | - | 2.9 | 424.9 | 295,289.63 | 695 |
| Executive Director | 650 | - | 3.3 | 9.4 | - | - | - | 3.5 | - | - | 16.2 | 10,530.00 | 650 |
| Director | 625 | 18.7 | 289.0 | 51.6 | 5.3 | 1.8 | - | 43.4 | 0.7 | 3.5 | 414.0 | 258,734.38 | 625 |
| Associate Director | 575 | 1.3 | 129.3 | 85.8 | 59.3 | 4.6 | 0.2 | 61.8 | - | 4.7 | 347.0 | 199,496.25 | 575 |
| Manager | 525 | 8.4 | 500.5 | 181.1 | 17.0 | 15.6 | - | 21.6 | 0.1 | 24.5 | 768.8 | 403,633.13 | 525 |
| Assistant Manager | 475 | - | 6.1 | 1.8 | - | - | - | 9.1 | - | - | 17.0 | 8,075.00 | 475 |
| Executive | 475 | - | 64.1 | 44.3 | 13.2 | 0.1 | 4.0 | 14.8 | 0.2 | 2.4 | 143.1 | 67,971.60 | 475 |
| Senior Analyst | 425 | - | 142.2 | 75.8 | 40.9 | 1.5 | - | 13.8 | - | - | 274.2 | 116,535.00 | 425 |
| Analyst | 375 | - | 95.0 | 55.6 | 43.2 | 32.7 | - | 45.3 | 3.8 | 3.9 | 279.4 | 104,775.00 | 375 |
| Accountant | 325 | - | 0.2 | 0.4 | 26.6 | 0.5 | - | 14.9 | - | - | 42.6 | 13,845.00 | 325 |
| Vacationer | 225 | - | 1.9 | 0.3 | 0.1 | - | - | 0.3 | - | - | 2.6 | 585.00 | 225 |
| Accounts Supervisor | 225 | - | 0.3 | - | 4.3 | - | - | - | - | - | 4.6 | 1,035.00 | 225 |
| Total | | 41.4 | 1,466.3 | 592.7 | 225.2 | 57.5 | 4.7 | 300.0 | 4.8 | 41.8 | 2,734.33 | 1,480,504.97 | 466 |

Please note, in this report the Court Application phase has been combined with the Investigation phase, which is different from the previous report. The above table now reflects the accurate changes.

E – List of creditors

The following table provides a summary of the list of creditor claims the Liquidators have received to date. The Liquidators have not admitted any preferential or non-preferential unsecured creditors' claims.

| Creditor | Preferential unsecured (NZ\$) | Non-preferential unsecured (NZ\$) |
|------------------------------|-------------------------------|-----------------------------------|
| Digital Island | | 224 |
| Employee entitlements | 79,454 | |
| Get More Traffic HQ | | 79 |
| HD NET | | 454 |
| Inland Revenue Department | 36,906 | 8,724 |
| Iris Samia | | 739 |
| Miriam Samia | | 2,081 |
| NZME Radio | | 345 |
| Packaging Recyclers (1992) | | 12 |
| Receipt Bank Ltd | | 20 |
| Simply Energy | | 536 |
| StaffChecks | | 191 |
| Tech Management Group | | 541 |
| Unlimited Internet | | 10 |
| UPWORK | | 2,931 |
| Verifi Identity Services Ltd | | 531 |
| Voyager | | 65 |
| We Clean U | | 109 |
| Total | 116,360 | 8,868 |

Please note that due to the quantity of contingent creditors and the confidentiality of this information it is not practical to replicate the list in full in this report. As such the above table does not include a list of individual Halifax NZ client investors which make up approximately 2,100 contingent creditors of Halifax NZ for the value of \$1. A list of these contingent creditors can be found in the Liquidators' first statutory report at:

<https://app.companiesoffice.govt.nz/companies/app/service/services/documents/040842DEC6D7567469635D94121C7D35>